

**TOWN OF FREDERICK, COLORADO
ORDINANCE NO. _____**

**AN ORDINANCE OF THE TOWN OF FREDERICK COLORADO,
REGARDING VACATING A PORTION OF RIGHT OF WAY FOR
COLORADO BOULEVARD, TOWN OF FREDERICK**

WHEREAS, the Board of Trustees of the Town of Frederick, Colorado, has been requested by Dacono Investment Co., LLLP to vacate a portion of the right-of-way for Colorado Boulevard, a/k/a Weld County Road 13, in Sec. 36, T2N, R68W of the 6th P.M., Town of Frederick, adjacent to property owned by Dacono Investment Co., LLLP, more fully described in Exhibit "A"; and

WHEREAS, the Board of Trustees has determined that there is no longer a need for public access through said portion of the right-of-way; and

WHEREAS, Dacono Investment Co., LLLP has offered property for an alternate right-of-way alignment that offers improved access over the existing portion of said right-of-way requested to be vacated; and

WHEREAS, C.R.S., § 43-2-301, *et seq.* and Section 4.7. 6. of the Frederick Land Use Code provide the authority to the Town of Frederick to vacate such rights-of-way and to provide that title to the land included in said right-of-way shall vest with the owners of the land abutting such vacated portion.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. The following criteria for vacating a right-of-way, pursuant to Land Use Code section 4.7 6.(c), has been satisfied:

- a. The right of way being vacated is not needed in the short or long term.
- b. If it is necessary to replace the right-of-way, Dacono Investment Co., shall file the appropriate application and be responsible for all costs associated with the replacement.
- c. Dacono Investment Co. shall relocate all public facilities or utilities within the right-of-way.
- d. The public and surrounding properties will not be negatively impacted by the vacation.

Section 2. The right of way being vacated abuts land owed by Dacono Investment Co. at the intersection of Weld County Road 13 and Colorado Highway 52 in the SE quarter of Section 36, T2N, R68W of the 6th P.M., within the Town of Frederick and is more particularly described on Exhibit A; and

Section 3. Dacono Investment Co. owns the property adjacent to the subject right-of-way under Rec. No. 1648431 of the real property records of Weld County, Colorado, and title to the vacated area shall vest in Dacono Investment Co., LLLP; and

Section 4. The Town shall retain a utility and drainage easement over and through the parcel, more particularly described on Exhibit A attached hereto and made a part hereof, that allows for the construction, operation and maintenance of public and private utilities over and through said parcel; and

Section 5. Effective date. This ordinance shall be published and become effective as provided by law.

Section 6. Severability. If any part, section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid, such invalidity shall not affect the validity of the remaining sections of the ordinance. The Town hereby declares that it would have passed the ordinance including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more part, sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 7. Repealer. All ordinances or resolutions and motions of the Board of Trustees of the Town of Frederick or parts thereof in conflict with this ordinance are, to the extent of such conflict, hereby superseded and repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance, resolution or motion, nor revive any ordinance, resolution, or motion thereby.

**INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED
THIS 9th DAY OF MARCH, 2010.**

ATTEST:

TOWN OF FREDERICK

By _____
Nanette S. Fornof, Town Clerk

Eric E. Doering, Mayor

PROPERTY DESCRIPTION

Exhibit A

(1 of 3)

A parcel of land being part of the Southeast Quarter (SE1/4) of Section Thirty-six (36), Township Two North (T.2N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), Town of Frederick, County of Weld, State of Colorado, and being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 36 and assuming the East line of the Southeast Quarter (SE1/4) of said Section 36 as bearing North 00°01'37" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, a distance of 2657.54 feet with all other bearings contained herein relative thereto:

THENCE North 00°01'37" East along the East line of the Southeast Quarter (SE1/4) of said Section 36 a distance of 120.20 feet to the former Northerly Right-of-Way line of State Highway No. 52 as described in that Warranty Deed recorded March 1, 1960 in Book 1552 at Page 140 of the records of the Weld County Clerk and Recorder;

The following Two (2) courses and distances are along said former Northerly Right-of-Way line:

THENCE South 89°51'58" West a distance of 103.70 feet to a Point of Curvature (PC);

THENCE along the arc of a curve which is concave to the South a distance of 52.02 feet, said curve having a radius of 11510.00 feet, a central angle of 00°15'32" and a long chord bearing South 89°44'11" West a distance of 52.02 feet to the Southeast corner of that parcel of land described in that Special Warranty Deed recorded September 14, 2007 as Reception No. 3504064 of the records of the Weld County Clerk and Recorder, said point also being the Southeast corner of that parcel of land described in that Warranty Deed recorded April 17, 1980 in Book 900 as Reception No. 1822483 of the records of the Weld County Clerk and Recorder;

The following Two (2) courses and distances are along the Easterly lines of that parcel of land described in said Special Warranty Deed with Reception No. 3504064 and the Easterly lines of that parcel of land described in said Warranty Deed with Reception No. 1822483:

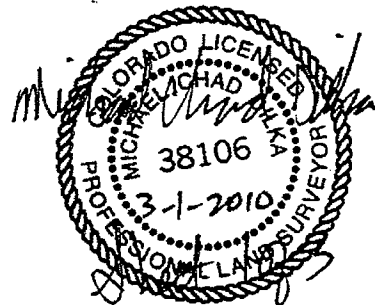
THENCE North 45°08'01" West a distance of 43.50 feet;

THENCE North 00°00'09" West a distance of 34.41 feet to the Northerly Right-of-Way line of State Highway No. 52, said point being the Northeast corner of that parcel of land described in said Special Warranty Deed with Reception No. 3504064, said point also being the **POINT OF BEGINNING**, said point also being the beginning point of a curve, said curve being non-tangent to aforesaid line;

THENCE along said Northerly Right-of-Way line of State Highway No. 52 and along the Northerly line of that parcel of land described in said Special Warranty Deed with Reception No. 3504064 and along the arc of a curve which is concave to the South a distance of 80.01 feet, said curve having a radius 6091.50 feet, a central angle of 00°45'09" and a long chord bearing South 89°08'21" West a distance of 80.01 feet to the Westerly line of that parcel of land described in said Warranty Deed with Reception No. 1822483, said point also being the Northwest corner of that parcel of land described in said Special Warranty Deed with Reception No. 3504064;

The following Four (4) courses and distances are along the Westerly lines of that parcel of land described in said Warranty Deed with Reception No. 1822483:

THENCE North 00°00'09" West, along a line non-tangent to aforesaid curve, a distance of 126.84 feet to a Point of Curvature (PC);



PROPERTY DESCRIPTION

Exhibit A

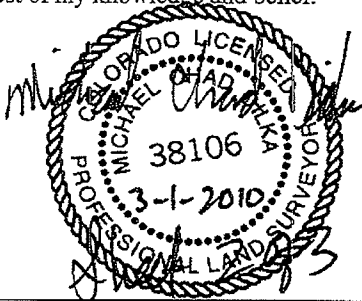
(2 of 3)

THENCE along the arc of a curve which is concave to the Southeast a distance of 684.69 feet, said curve having a radius of 1949.86 feet, a central angle of 20°07'10" and a long chord bearing North 10°03'26" East a distance of 681.18 feet to a Point of Tangency (PT);
THENCE North 20°07'01" East a distance of 129.86 feet to a Point of Curvature (PC);
THENCE along the arc of a curve which is concave to the Northwest a distance of 103.88 feet, said curve having a radius of 1869.86 feet, a central angle of 03°59'10" and a long chord bearing North 18°31'31" East a distance of 103.86 feet;
THENCE South 50°07'09" East a distance of 52.68 feet to a line being Thirty (30) feet West of and parallel with the East line of the Southeast Quarter (SE1/4) of said Section 36;
THENCE South 00°01'37" West along said parallel line a distance of 96.97 feet to the Easterly line of that parcel of land described in said Warranty Deed with Reception No. 1822483;
The following Three (3) courses and distances are along the Easterly lines of that parcel of land described in said Warranty Deed with Reception No. 1822483:
THENCE South 20°07'01" West a distance of 124.80 feet to a Point of Curvature (PC);
THENCE along the arc of a curve which is concave to the Southeast a distance of 656.60 feet, said curve having a radius of 1869.86 feet, a central angle of 20°07'10" and a long chord bearing South 10°03'26" West a distance of 653.23 feet to a Point of Tangency (PT);
THENCE South 00°00'09" East a distance of 125.64 feet to the **POINT OF BEGINNING**.

Said parcel contains 1.836 acres, more or less (±), and may be subject to any rights-of-way or other easements of record or as now existing on said described parcel of land.

SURVEYOR'S STATEMENT

I, Michael Chad Dilka, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



Michael Chad Dilka - on behalf of King Surveyors, Inc.
Colorado Licensed Professional Land Surveyor #38106

KING SURVEYORS, INC.

650 East Garden Drive
Windsor, Colorado 80550
(970) 686-5011

JN: 2004295-A

LINE TABLE

LINE	BEARING	LENGTH
L1	N00°01'37"E	120.20'
L2	S89°51'58"W	103.70'
L3	N45°08'01"W	43.50'
L4	N00°00'09"W	34.41'
L5	N00°00'09"W	126.84'
L6	N20°07'01"E	129.86'
L7	S50°07'09"E	52.68'
L8	S00°01'37"W	96.97'
L9	S20°07'01"W	124.80'
L10	S00°00'09"E	125.64'

EAST QUARTER CORNER
SEC. 36, T.2N., R.68W.
30' RIGHT-OF-WAY PER ACCEPTED
ROAD VIEWER'S REPORT DATED 4-17-1884;
RECORDED 4-18-1884 B48 P109
& DEED RECORDED 3-17-1909 B296 P149

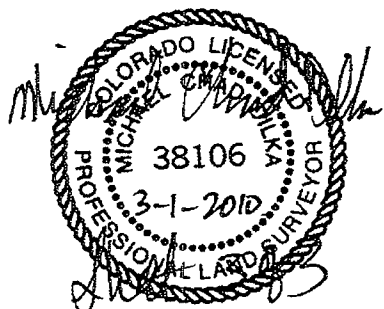
DACONO INVESTMENT CO.
BOOK 726 REC. NO. 1648431

CURVE TABLE

CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C1	52.02'	11510.00'	00°15'32"	52.02'	S89°44'11"W
C2	80.01'	6091.50'	00°45'09"	80.01'	S89°08'21"W
C3	684.69'	1949.86'	20°07'10"	681.18'	N10°03'26"E
C4	103.88'	1869.86'	03°10'59"	103.86'	N18°31'31"E
C5	656.60'	1869.86'	20°07'10"	653.23'	S10°03'26"W

THERE IS A WASTE DITCH AGREEMENT
ON & ACROSS THE SE¼ OF THE SE¼
OF SEC. 36, T.2N., R.68W. (B29 P490)

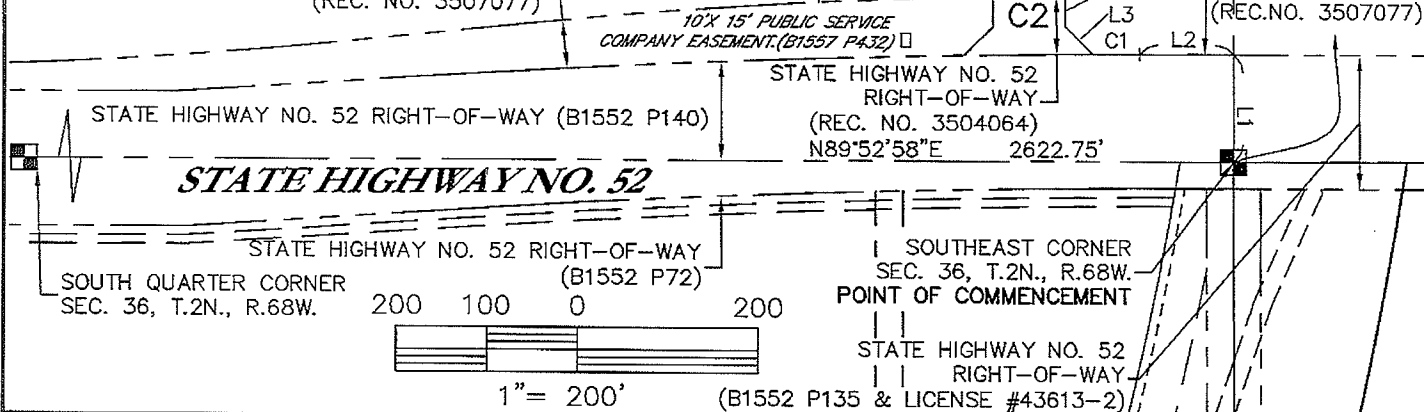
VERY APPROXIMATE LOCATION OF
50' PANHANDLE EASTERN PIPE LINE
COMPANY EASEMENT. INSUFFICIENT
INFORMATION IN DEED FOR EXACT LOCATION.
(B813 REC. NO. 1734652)



Michael Chad Dilka - on behalf of King Surveyors, Inc.
Colorado Licensed Professional Land Surveyor #38106

NOTE: This exhibit drawing is not intended to be a monumented land survey. It's sole purpose is as a graphic representation to aid in the visualization of the written property description which it accompanies. The written property description supersedes the exhibit drawing.

STATE HIGHWAY NO. 52 RIGHT-OF-WAY
(REC. NO. 3507077)



KING SURVEYORS, INC.

650 Garden Drive | Windsor, Colorado 80550
phone: (970) 686-5011 | fax: (970) 686-5821
www.kingsurveyors.com

PROJECT NO: 2004295-A

DATE: 03/01/2010

CLIENT: TOWN OF FREDERICK

DWG: REMAINDER-WELD COUNTY ROAD 13_R1

DRAWN: MCD CHECKED: MCD